

### REMARKS

Claims 1-15 and 17-21 remain in the application. Claims 1-15 and 17-20 have been amended, claim 16 has been cancelled and claim 21 is new. The Applicant submits that the amendments are supported by the written specification and referenced drawings. The Applicant contends that, by the present submission all bases of objection and rejection have been overcome. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejections.

### SUMMARY OF ACTION FROM THE OFFICE

1. In the Office Action Claims 4 and 5 stand rejected under 35 U.S.C. 112.
2. In the Office Action Claims 1-7 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al. (4,396,221).
3. In the Office Action Claim 17 stands rejected under 35 U.S.C. 102(b) as being anticipated by King (3,711,893).
4. In the Office Action claims 1-22 stand rejected on the basis of nonstatutory double patenting in regards to U.S. Patent No. 7,100,328.
5. In the Office Action claim 17 stands rejected on the basis of nonstatutory double patenting in regards to U.S. Patent No. 7,024,822.

### ARGUMENT

The Applicant respectfully traverses the rejections and requests reconsideration based on the enclosed amendments.

1. In the Office Action Claims 4 and 5 stand rejected under 35 U.S.C. 112.

The Applicant has amended the claims to address the issues raised by the Examiner and to more succinctly define the presently claimed invention. Therefore, the Applicant respectfully request reconsideration.

**2. In the Office Action Claims 1-7 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al. (4,396,221).**

In the office action it is submitted that that Morgan et al. ('221) shows a pivot 98, and a polymeric member 100 having an arcuate support portion 106 encapsulating the hinge portion. The Applicant submits that the term "encapsulated" is a term of art known to those skilled in the art and that the arcuate support portion 106 does not "encapsulate" the hinge portion as would be understood by one skilled in the art as item 106 is a seal disposed adjacent to the hinge portion and therefore does not encapsulate the hinge portion. Because the seal does not encapsulate the hinge portion the Morgan reference does not anticipate the previous claims.

However, for ease of understanding, the applicant has amended Claim 1 to read as follows: "polymeric member molded about a portion of the pivot member to attach the pivot member to the windowpane and to allow the windowpane to rotate about the pivot axis". Such a member is not taught by Morgan et al., see column 5, lines 5-40 of US Pat. No. 4,396,221 for example. As disclosed therein Morgan et al. teaches: "A preferred adhesive system found suitable for attachment of either hinge members 25 or base 38 of pivot latch assembly 37 directly to a surface of the glass window pane 12, and especially to tempered glass, is that marketed under the trademark "Tenabond" by Illinois Tool Works, Inc. of Elgin, Illinois. Such adhesive system includes an epoxy adhesive layer 34 or 39, typically applied directly in tape form on the metal hinge member 25 or pivot latch assembly stud 38 and between that hinge member or stud and the glass surface. The stud or hinge member is pressed against the adhesive and rapidly heated using an induction heating apparatus of the type shown in any one of U.S. Pat. Nos. 3,816,690, 4,032,740, 4,163,884 or 4,167,259. ..." Because Morgan does not have a "polymeric member molded about a portion of the pivot member to attach the pivot member to the windowpane and to allow the windowpane to rotate about the pivot axis, the Applicant submits that the present claims are patentable over the reference.

Furthermore, for ease of understanding, Claim 17 has been amended to read as follows: A flush-mount, articulating vehicular window assembly adapted for use with a support structure, the assembly comprising in combination: a windowpane having an inner surface; a hinge connected to the windowpane and having a rotational pivot axis; and a

polymeric member molded about a portion of the hinge to connect the hinge to one side of the windowpane and so as to permit the windowpane to pivot about the pivot axis from a closed position to an open position. Because Morgan, among other things, is not a flush-mount, articulating vehicular window assembly nor does it have a hinge connected to the windowpane with a rotational pivot axis and a polymeric member molded about a portion of the hinge to connect the hinge to one side of the window pane so as to permit the windowpane to pivot about the pivot axis from a closed position to an open position, the claim as written is not anticipated by Morgan.

The Applicant respectfully requests reconsideration of Claims 1-7 and 17 based on the enclosed amendments and above arguments.

**3. In the Office Action Claim 17 stands rejected under 35 U.S.C. 102(b) as being anticipated by King (3,711,893).**

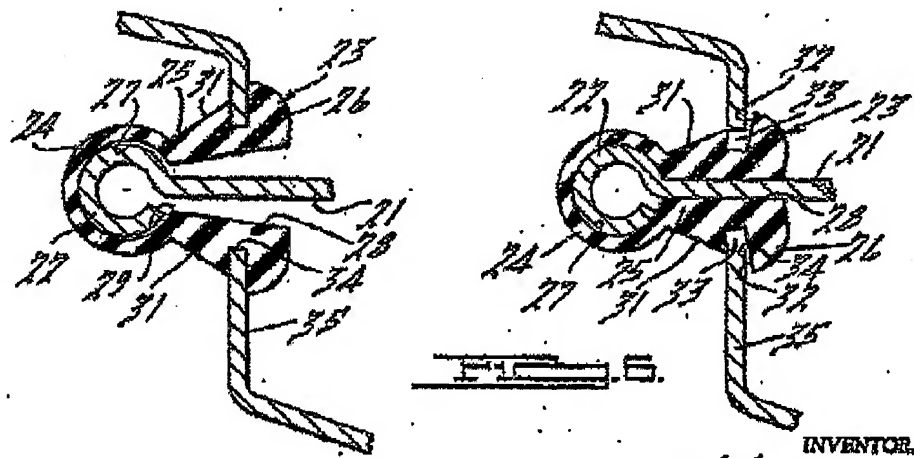
In the office action it is submitted that that King ('893) shows a hinge member 27 surrounded by a polymeric member. The Applicant submits that the term "encapsulated" is a term of art known to those skilled in the art and that the plastic insert shown in King does not "encapsulate" the hinge portion as would be understood by one skilled in the art because the retainer is merely forced over the tubular portion of the leaf hinge. Because King does not disclose encapsulate the leaf hinge, King does not teach an encapsulated hinge.

However, for a simpler definition of the claimed invention, the Applicant has amended Claim 17 to read as follows: "polymeric member molded about a portion of the pivot member to attach the pivot member to the windowpane and to allow the windowpane to rotate about the pivot axis".

As seen by Fig 5 and Fig. 6 King teaches a plastic insert as described in detail in lines 11-34 of Column 3. "The assembly of the ventilation window panel 12 to the vehicle body pillar 13 utilizing the hinge devices 14 of the present invention requires the following steps. First, the upper and lower hinge leafs are directly bolted or riveted to the window panel 12 by use of suitable fasteners 19, the window panel being suitably apertured to receive the bolts or rivets. Next, the second hinge member or retainer 23 is pressed over the tubular portion 22 on the distal end of each hinge leaf 17. This is done by aligning the slot

28 on the second hinge member 23 with the tubular portion 22. The two are then forced together so that tubular portion 22 is forced between the bottom edges 29 of the slot 28 until the tubular portion 22 snaps into the tubular socket 27 in the cylindrical portion 24. The fact that the side walls of the second hinge member or retainer body portion 23 are slit, as at 36, permits the side walls to resiliently yield to enlarge the entrance 29 into the tubular socket 27. As soon as the tubular portion passes into the socket 27, the side walls of the central portion of the retainer body are self-restoring to the free state, substantially that shown in FIG. 5, and the tubular portion is held against withdrawal from the tubular socket.

The window panel 12 with the assembled hinge devices 14 then may be shipped to the assembly line for installation into a vehicle body. This is accomplished by inserting the cylindrical portion 24 of each hinge device 14 through an aperture 34 in the wall 35 of the body pillar 13. Because the exterior side walls of the central body portion 24 has tapered projections 31, the side walls collapse inwardly as shown in FIG. 6 until the retention grooves 33 become aligned with the sheet metal of the wall 35 of the pillar 13."



Because King does not have a "polymeric member molded about a portion of the pivot member to attach the pivot member to the windowpane and to allow the windowpane to rotate about the pivot axis, the Applicant submits that the present claims are patentable over the reference.

The Applicant respectfully requests reconsideration of Claim 17 based on the enclosed amendments and above arguments.

**4. In the Office Action claims 1-22 stand rejected on the basis of nonstatutory double patenting in regards to U.S. Patent No. 7,100,328.**

The Applicant respectfully submits that because the claims of the '328 patent cover different subject matter than the claims of the present rejection, the rejection is not proper. As can be seen in the '328 patent, the invention claimed therein can be practiced independent of the device as claimed in the present applicant application. The Applicant hereby requests reconsideration based on the enclosed amendments.

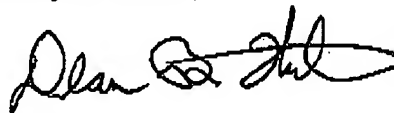
**5. In the Office Action claim 17 stands rejected on the basis of nonstatutory double patenting in regards to U.S. Patent No. 7,024,822.**

The Applicant respectfully submits that because the claims of the '822 patent cover different subject matter than the claims of the present rejection, the rejection is not proper. As can be seen in the '822 patent, the invention claimed therein can be practiced independent of the device as claimed in the present applicant application. The Applicant hereby requests reconsideration based on the enclosed amendments.

### CONCLUSION

The Applicants respectfully submits that all bases for rejection have been overcome by the present amendment and above arguments, and respectfully requests that the application be reconsidered and allowed.

Respectfully submitted,



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